

1 GIRARDI | KEESE
2 THOMAS V. GIRARDI (SBN 36603)
3 tgirardi@girardikeese.com
4 JAMES G. O'CALLAHAN (SBN 126975)
5 jgocallahan@girardikeese.com
6 CELENE S. CHAN (SBN 260267)
7 cchan@girardikeese.com
8 1126 Wilshire Boulevard
9 Los Angeles, California 90017
10 Phone: (213) 977-0211
11 Facsimile: (213) 481-1554

12 Attorneys for Defendants

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 JUDITH ALLEN, *et al.*,

16 Plaintiffs,

17 vs.

18
19 GIRARDI | KEESE, THOMAS V.
20 GIRARDI, and JAMES G.
21 O'CALLAHAN,

22 Defendants.

CASE NO.: 14-CV-02721-MWF-FFM

23 **DECLARATION OF JAMES G.**
24 **O'CALLAHAN IN SUPPORT OF**
25 **MOTION TO DISMISS AND**
26 **COMPEL ARBITRATION**

27 Hon. Michael G. Fitzgerald

28 Date: June 2, 2014

Time: 10:00 a.m.

Location: Courtroom 1600

DECLARATION OF JAMES G. O'CALLAHAN

1
2 1. I am an attorney at law admitted to practice in the State of California and an
3 attorney at the law firm of Girardi | Keese. I have personal knowledge of the matters
4 stated herein and, if called as a witness in this action, I could and would testify
5 competently thereto unless otherwise stated. I make this declaration in support of
6 Defendants Girardi | Keese, Thomas V. Girardi, and James G. O'Callahan's (collectively
7 "Defendants") Motion to Dismiss and Compel Arbitration.

8 2. A true and correct copy of the Retainer Agreement containing the arbitration
9 provision entered into by Plaintiffs is attached hereto as **Exhibit 1**.

10 3. Gruber & Gruber and the Law Offices of Howard A. Snyder claimed and
11 received \$102,024.11 and \$63,606.01 in costs, respectively, for a total of \$165,630.12.

12 4. In early 2014, my firm began receiving written correspondence from
13 Plaintiffs' counsel. I explained that retired California Supreme Court Justice Edward A.
14 Panelli was appointed for purposes of allocating settlement monies in the HRT litigation.
15 This appointment was incorporated into the settlement agreement. Any plaintiff in the
16 HRT litigation who felt that there were special circumstances associated with their claim
17 was offered the opportunity to meet with Justice Panelli to tell him what was out of the
18 ordinary about their claim. A small number of plaintiffs took advantage of this
19 opportunity. After conducting the hearings, Justice Panelli allocated the settlement
20 monies among the plaintiffs. He also instructed us to hold back 6% of every plaintiff's
21 settlement until all lien issues were resolved, all consents had been received, and the final
22 accounting had been completed. A true and correct copy of the correspondence is
23 attached hereto as **Exhibit 2**.

24 5. On February 13, 2014, I sent counsel for Plaintiffs correspondence
25 explaining and attaching, *inter alia*, a redacted release in the HRT litigation identifying
26 Justice Edward Panelli (ret.) as having sole discretion to make awards in the HRT
27 litigation. Each Plaintiff was required to sign and notarize the release containing this
28 provision.

